IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.276 OF 2007

1.Shri Bapu Jayavantrao Bhegade
2.Shri Kishore Chaburao Bhegade ...Applicants.
V/s.
The State of Maharashtra ...Respondent.

Mr.A.Majid Memon, adv. for the Applicants.
Mr.Y.S.Shinde, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 8th February, 2007.

P.C.:

1. Heard Mr.Majid Memon, the learned counsel for the Applicant and Mr.Shinde, the learned APP for the State. Perused police papers.

2. The applicant no.1 seeks anticipatory bail in crime no.159 of 2006 registered at Talegaon Dabhade police station for the offences punishable under Sections 143, 147, 148, 307, 326, 342, 325, 324, 506, 504, 323 read with Section 149 of the I.P.C. The applicant no.2, Shri Kishore Bhegade is already granted anticipatory bail by an order dated 29th January, 2007 and therefore, now the application is restricted only to applicant no.1, Shri Bapu Jayavantrao Bhegade.

3. According to the prosecution, report was lodged by Santosh Bhegade at the police station on 7-12-2006 at

6.00 p.m. Santosh Bhegade had taken contract of supplying sand for construction of building of General Motors Company in the M.I.D.C. area. On 6-12-2006 there was a message given to him by his driver that supervisor of Bapu Bhegade, i.e., the present applicant was not allowing him to unload the truck and had threatened. On 7-12-2006, at about 5.30 p.m. a truck of Santosh Bhegade loaded with sand went to the site for unloading. Santosh, Ganesh, cousin Datta and some other persons went to the site by car. When the truck was being unloaded, the present applicant and his companions came there in a Skoda and Maruti Esteem cars. The present applicant and five others came out from the cars. At that time, the present applicant was armed with chopper while applicant no.2, Kishore was holding a hockey stick and others were armed with swords. As soon as they came out from the cars, the present applicant abused Ganesh and threatened him against the unloading of sand on the place as he was not happy because the contract was given to Ganesh and his relatives. Saying so, the present applicant attacked on Ganesh with chopper in his hand while two others, i.e., Prashant and Rahul attacked with swords. Dattatray Bhegade tried to intervene but he was also assaulted and injured. Similarly, Santosh was also assaulted and injured by these persons. Medical report reveals that Ganesh had

suffered in all 5 injuries including complete amputation of left thumb, other injuries were on his right arm, right hand, left pectoral region and left gluteal region. Datta had suffered 3 injuries and they were also on right hand, left shoulder and on right earlobe. Santosh suffered injuries on the left side back in a infrascapular region, abrasion over right side back infrascapular region and contusion over left hand. Except amputation of left thumb, which was clearly grievous, all other injuries appear to be simple.

4. Mr.Majid Memon, the learned counsel for the applicant vehemently contended that if injuries are carefully seen, it would be clear that the assailants had no intention to cause death and therefore, they did not assault on any vital parts of the body like head, neck, chest, abdomen and therefore, Section 307 of the I.P.C. would not be applicable. Besides, this he contended that present applicant no.1 is elected as Municipal Councillor while the said Ganesh contested and was defeated in the election. He contends that to finish the political career and to see that the present applicant is arrested and put behind the bars and thus, his image is tarnished, he has been falsely implicated in this case. He also contended that as per the recovery report, certain weapons were recovered at the

instance of another accused, Prashant Taware and now nothing is to be recovered from the present applicant and therefore, he deserves to be granted anticipatory bail.

5. The learned APP, Mr.Shinde opposes the application. He contended that when so may persons were injured and weapons were used, there is a possibility that there may be blood stains on the clothes of the accused persons also. He contends that even if the offence under Section 307 is not made out still the offence under Section 326 is a serious one and that appears to have been committed in view of the fact that complete left thumb of Ganesh, who is political rival of the present applicant, was amputed and therefore, custodial interrogation of the present applicant is necessary.

6. Taking into consideration the circumstances and the facts in their totality, it appears that applicant no.1 is a politically influential person. Merely because he is elected as a municipal councillor in the election, he does not get right to be granted anticipatory bail in a serious offence like the present one. Even though taking into consideration the injuries suffered by 3 persons, Section 307 may not be invoked,

Sections 324, 326, 147 and 148 of the I.P.C. can certainly be applicable. Three persons from the opposite side were injured as pointed out above. No one from side of the applicant has suffered injuries. All the witnesses have stated before the police about specific role of the present applicant in that assault and attack. Taking into consideration these circumstances, it is difficult to say that false case has been cooked up or the present applicant is falsely implicated. Therefore, in my opinion, it is not a fit case to grant anticipatory bail.

7. Application stands rejected.

8. At this stage, Mr.Majid Memon makes a statement that the applicant will surrender before the concerned Additional Sessions Judge, Sessions Court at Pune on 12th February, 2007 and seek bail as per the law. Mr.Shinde, the learned APP assures that till that time, the applicant will not be arrested. Sessions Court shall consider the bail application which may be filed by the present applicant on its own merits.

(J.H.Bhatia,J.)